

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BEATRICE HUDSON,

Plaintiff,

vs.

CITY OF OMAHA,

Defendant.

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8:06cv425

ORDER ON INITIAL REVIEW

This matter is before the court on Filing No. 2, the Motion to Proceed In Forma Pauperis ("IFP") filed by the plaintiff, Beatrice Hudson. The plaintiff has sued the City of Omaha, alleging that on May 16, 2006, Omaha municipal workers entered the plaintiff's apartment, without her consent, looking for a water leak. They also questioned the plaintiff as to why her clothes were wet. The plaintiff claims that the City workers trespassed on her property and subjected her apartment to a warrantless search.

Because the plaintiff qualifies financially, her Motion for Leave to Proceed IFP will be granted. However, the court questions whether the factual allegations of the complaint, if true, indicate a violation of the Constitution, laws or treaties of the United States. Presumably, the defendant will explain why City workers believed that the plaintiff's apartment was the origin of leaking water on the date in question.

THEREFORE, IT IS ORDERED:

1. That Filing No. 2, the plaintiff's Motion to Proceed IFP, is granted;
2. That as initial review of the complaint is now concluded, it is time for the plaintiff to obtain service of process on the defendant, as set forth below; and because the

plaintiff is proceeding IFP, the U.S. Marshal will serve the defendant, after the plaintiff completes and returns the appropriate forms:

- a. The Clerk of Court shall provide the plaintiff with summons and USM-285 forms (one of each) and a copy of this Order. The plaintiff shall, as soon as possible, send the completed summons and 285 forms back to the Clerk of Court. Absent the completed forms, service of process cannot occur.
- b. For service of process on the City of Omaha, the plaintiff must comply with Neb. Rev. Stat. § 25-510.02(2), which states: "Any county, city, or village of this state may be served by personal, residence, or certified mail service upon the chief executive officer, or clerk." The address of the City Clerk is 1819 Farnam Street, Suite LC-1, Omaha, NE 68183.
- c. Upon receipt of the completed forms, the Clerk of Court will sign the summons, to be forwarded, together with a copy of the Complaint, to the U.S. Marshal for service on the defendant. The court will copy the complaint for the Marshal. The Marshal shall serve the documents without payment of costs or fees and service may be by certified mail pursuant to Fed. R. Civ. P. 4 and Nebraska law in the Marshal's discretion.
- d. Fed. R. Civ. P. 4(m) requires service of the complaint on a defendant within 120 days of opening the case. Failure to obtain service of process on the defendant by that deadline may result in dismissal of this action without further notice.

- e. After the defendant enters an appearance, the plaintiff must serve on the defendant's counsel a copy of every future document submitted to the court. Parties usually serve copies of documents on other parties by first class mail.
- f. The plaintiff shall include with each document submitted to the court a "Certificate of Service" stating the date a true and correct copy of such document was mailed to the defendant's attorney.
- g. A defendant has twenty (20) days after receipt of a summons to answer or otherwise respond to a complaint.
- h. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court. The federal rules are available at any law library, and the local rules are available from the Clerk of Court, and also on the court's web site at [www.ned.uscourts.gov](http://www.ned.uscourts.gov).
- i. The plaintiff shall keep the court informed of any changes in the address where the plaintiff can be reached while this litigation is pending. Failure to do so could result in dismissal.

DATED this 2<sup>nd</sup> day of August, 2006.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge